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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/059,580	01/28/2002	Robert F. Gazdzinski	RFG.015A	7928
27299	7590	11/14/2006		
GAZDZINSKI & ASSOCIATES 11440 WEST BERNARDO COURT, SUITE 375 SAN DIEGO, CA 92127			EXAMINER CURS, NATHAN M	
			ART UNIT	PAPER NUMBER
			2613	

DATE MAILED: 11/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

58

Office Action Summary	Application No.	Applicant(s)	
	10/059,580	GAZDZINSKI, ROBERT F.	
	Examiner	Art Unit	
	Nathan Curs	2613	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 August 2006.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 28, 29 and 31-51 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 28, 29, 31 and 32 is/are allowed.
- 6) ☒ Claim(s) 34-38 and 44-51 is/are rejected.
- 7) ☒ Claim(s) 33 and 39-43 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 February 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

1. Claims 33 and 43 are objected to because of the following informalities: the phrase "said first radiation" should be "said medium". Appropriate correction is required.
2. Claim 39 is objected to because of the following informalities: the phrase "For use in data network used to transfer a plurality of data bits from one location to at least one second location" should be changed to "For use in a data network used to transfer a plurality of data bits from a first location to at least a second location". Appropriate correction is required.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
4. Claims 34-38 and 45-51 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claims 34-38, a claim that claims both an apparatus and the method steps of using the apparatus is indefinite.

Regarding claims 45-48, claims 45 claim an apparatus "configured to selectively irradiate said medium with said second radiation" (lines 8-9), with "said selective radiation comprising control of the application of said second radiation" (line 10-11). The "said selective radiation" is made up of selected parts of the second radiation, so the phrase "said selective radiation comprising control of the application of said second radiation" does not make sense.

Art Unit: 2613

Claim 48 recites the limitation "said stored information". There is insufficient antecedent basis for this limitation in the claim.

Claim 49 recites the limitation "said first electromagnetic radiation". There is insufficient antecedent basis for this limitation in the claim.

Regarding claims 49-51, claim 49 claims an apparatus "adapted to selectively and subsequently irradiate said medium with second electromagnetic radiation" (lines 6-7), where "said selective radiation comprises controlling the applicant of said second radiation" (lines 11-12). The "said selective radiation" is made up of selected parts of the second radiation, so the phrase "said selective radiation comprises controlling the applicant of said second radiation" does not make sense.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 44 and 45 are rejected under 35 U.S.C. 102(b) as being anticipated by Webb (US Patent No. 4863230).

Regarding claim 44, Webb discloses a method of conditioning light energy in an optical communication system having an optical medium, comprising: a step for providing first electromagnetic radiation having a plurality of information associated therewith (fig. 1, elements "input signal" and 8, and col. 1, lines 4-37 and col. 2, line 40 to col. 3, line 19); a step for providing second electromagnetic radiation (fig. 1, element 13 and col. 1, lines 4-37 and col. 2, line 40 to col. 3, line 19); a step for irradiating said medium with said first electromagnetic

Art Unit: 2613

radiation and a step for selectively irradiating said medium with said second radiation, said second radiation at least in part controlling the propagation of said first radiation through said medium (col. 1, lines 4-37); wherein said step for selectively irradiating comprises controlling the application of said second radiation to said medium based on receiving input from said communication system (col. 1, lines 4-37, where the "control signal" reads on input from the communication system); and wherein said method further comprises diverting at least a portion of said first radiation for propagation within said communication system apart from said medium (fig. 1, elements 6 and 7 and col. 2, lines 58-62).

Regarding claim 45, Webb discloses apparatus comprising an optical medium and adapted to condition light energy in an optical communication system, said apparatus comprising: apparatus configured to provide first electromagnetic radiation having a plurality of information associated therewith (fig. 1, elements "input signal" and 8, and col. 1, lines 4-37 and col. 2, line 40 to col. 3, line 19); apparatus configured to provide second electromagnetic radiation (fig. 1, element 13 and col. 1, lines 4-37 and col. 2, line 40 to col. 3, line 19); apparatus configured to irradiate said medium with said first electromagnetic radiation (fig. 1, element 8) and apparatus configured to selectively irradiate said medium with said second radiation (fig. 1, element 13), said second radiation at least in part controlling the propagation of said first radiation through said medium (col. 1, lines 4-37), where the selective irradiation of said second radiation to said medium is based on input received from said communication system (col. 1, lines 4-37, where the "control signal" reads on input from the communication system); and apparatus configured to divert at least a portion of said first radiation for propagation within said communication system apart from said medium (fig. 1, elements 6 and 7 and col. 2, lines 58-62).

Allowable Subject Matter

1. Claims 28, 29, 31 and 32 are allowed.
2. Claims 33 and 39 are objected to as described above, but would be allowable if rewritten to overcome the objections.
3. Claims 40-42 are objected to as being dependent on an objected to base claim, but would be allowable if the base claim was rewritten to overcome the corresponding objections.
4. Claim 43 is objected to as described above and for being dependent on an objected to base claim, but would be allowable if the claim were rewritten to overcome the objections and if the base claim was rewritten to overcome the corresponding objections.

Response to Arguments

5. Applicant's arguments filed 23 August 2006, with respect to claim 29 rejected under § 112, have been fully considered and are persuasive. The rejection of claim 29 has been withdrawn.
6. Applicant's arguments with respect to claims 32-51 have been considered but are moot in view of the new ground(s) of rejection.
7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Conclusion

8. Any inquiry concerning this communication from the examiner should be directed to N. Curs whose telephone number is (571) 272-3028. The examiner can normally be reached on M-F (from 9 AM to 5 PM).


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jason Chan, can be reached at (571) 272-3022. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (800) 786-9199.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pairedirect.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Application/Control Number: 10/059,580

Page 7

Art Unit: 2613



JASON CHAN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600